

Chapter 47
Planning

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History: Article I and Section 47-12 was Ordinance 11001¹ (adopted July 11, 1966) and Section 47-11 was Ordinance 4001 (adopted April 9, 2001).

¹ As amended by Ordinance 03-0915-01 (adopted October 20, 2003).

Article I Planning Commission

Section 47-1 Membership

The Commission shall consist of seven (7) members. The members shall be appointed by the Mayor, subject to confirmation by the Council. The members thereof shall be appointed for terms of such length and shall be so arranged that the term of at least one (1) member shall expire each year; and their successors shall be appointed for terms of three (3) to five (5) years each. Any member of the Commission may be removed for cause, after a public hearing, by the Mayor with the approval of the Council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as an original appointment. The Commission shall elect annually a chairman and a secretary from among its own number, and may employ clerical and other assistants, and experts. It may appoint a custodian of its plan and records who may be the city clerk or engineer. For any matter or application that must be submitted to the Planning Commission under this Code, the Planning Commission make its decision, report or recommendation on such matter or application within sixty (60) days of filing such matter or application with the City Manager. If the Planning Commission fails to render a decision, report or recommendation within such sixty (60) day period, it shall be deemed to have approved or positively recommended the proposed matter or application.

Section 47-2 Comprehensive Plan

The Commission shall make a comprehensive plan for the development of the entire area of the City or of such part or parts thereof as the Commission may deem advisable. The comprehensive plan shall show, among other things, existing and proposed public ways, streets, bridges, tunnels, viaducts, parks, parkways, playgrounds, sites for public buildings and other structures, pierhead and bulkhead lines, waterways, routes of railroads and buses, locations of sewers, water mains, other public utilities, and other appurtenances of such a plan including certain private ways. Such plan shall be adopted, and may be added to or changed from time to time, by a majority vote of the City Council and shall be a public record.

Section 47-3 General Studies and Reports

The Commission shall have full power and authority to make such investigations, maps and reports of the resources, possibilities, and needs of the City as it deems desirable or necessary, providing the total expenditures of the Commission shall not exceed the appropriation for its expenses. Upon completion of any such reports the Commission shall submit the same to

the Council with its recommendations. It shall report annually to the Council on the activities of the Commission during the preceding year.

Section 47-4 Entry Upon Lands; Making Examinations and Surveys

The Commission or any of its officers and agents, may, so far as they deem it necessary in carrying out the provisions of this Article, enter upon any lands and there make examinations and surveys, and place and maintain monuments and marks.

Section 47-5 Plat Review by Commission

As soon as a major street plan and a comprehensive plan have been adopted by the Commission and subdivision regulations have been adopted by the Council, it shall become the responsibility of the Commission to pass upon all proposed new or amended plats coming directly or indirectly under the jurisdiction of the City. No new plat, and no amendment or vacation of an existing plat or portion thereof shall thereafter be recorded without the review of the Commission.

Section 47-6 Jurisdiction to Enforce Article

The Court of Chancery for the State of Delaware shall have jurisdiction on petition of the Commission established hereunder to enforce any of the provisions of this Article and may restrain by injunction violations thereof.

Sections 47-7 to 47-10 Reserved

Article II Comprehensive Plan

Section 47-11 Adoption of Comprehensive Plan

The Comprehensive Plan dated August 2008, a copy of which is attached hereto as Appendix C and made part of this Article, is hereby adopted pending certification by the Governor.²

The Comprehensive Plan Update dated December, 2014, a copy of which is attached hereto as part of Appendix D and made part of this Article, is hereby adopted and shall amend the 2008 Comprehensive Plan where applicable. The 2008 Comprehensive Plan remains attached as Appendix C and shall remain in full force and effect except as modified by the 2014 Comprehensive Plan Update. The changes set forth in the Comprehensive Plan Update will be in full force and effect upon affirmative vote of Mayor and Council.³

Section 47-12 Legal Status of Comprehensive Plan

Following the adoption of a Comprehensive Plan for the City of Delaware City by the Mayor and Council of the City of Delaware City, then and thenceforth, no public street, park or other public way, public building or other public structure, City-owned water, sewer, electrical, or other utility system shown on any map comprising a part of the Comprehensive Plan shall be altered or modified in a manner that changes their appearance as depicted on such map unless and until such alterations or modifications shall have been approved by the Commission or until a period of forty-five (45) days has elapsed after a written request has been given to the Commission and the Commission has failed to make a decision on the request. The decision of the Commission may be overruled only by at least a four-fifths vote of the Council. Planning Commission approval shall not be required for the City to implement and perform maintenance, repair or replacement of any public street, park or other public way, public building or other public structure, City-owned water, sewer, electrical, or other utility system shown on any map comprising a part of the Comprehensive Plan or any other alteration or addition to same in a manner that does not change its appearance as depicted on any map comprising a part of the Comprehensive Plan.

Sections 47-13 to 47-15 Reserved

² Section 47-11 Amended by Ordinance 08-1020-01 adopted 11-24-08

³ Section 47-11 Amended by Ordinance 14-0915-01 adopted 3-4-15